

TO: Planning Commission
FROM: Kathleen Nordine, City Planner
DATE: June 21, 2012
SUBJECT: Information Packet

The June 26th Planning Commission meeting has been canceled. There were no applications submitted requiring Commission action and 3 of the 7 members indicated that they were not able to attend the meeting.

An information packet is being distributed to Commission members. This packet includes:

- 1) Planning Commission monthly report from the Community Development Director
- 2) In response to the May 22nd workshop;
 - a. Introduction to Robert's Rules of Order
 - b. Robert Rules of Order Motions Chart
 - c. Open Meeting Law
 - d. Revised Team Building Summary Report – See 5 C, page 2

Please review the information provided and contact me if you have any questions. Further discussion regarding these items can take place at the next workshop. The next regular Commission meeting is scheduled for July 24th.

Memorandum

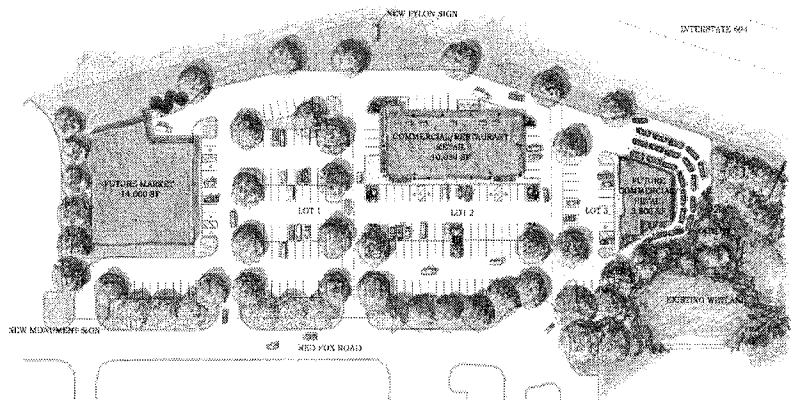
To: Planning Commission Members
From: Tom Simonson
Assistant City Manager and Community Development Director
Date: June 20, 2012
Re: Community Development Monthly Report

Development Project Updates

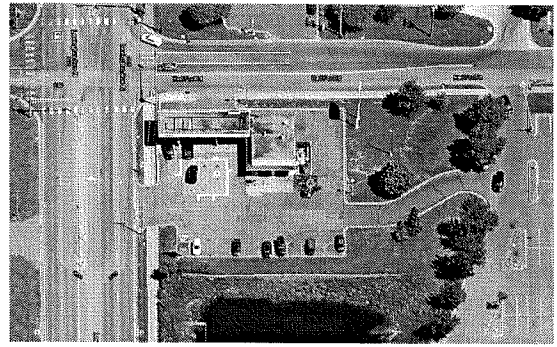
Red Fox Road/Stonehenge Retail. Construction work on the retail center project is well underway, with major grading of the entire 6-acre development site completed and structural work on the building shell almost finished. The retail center will include Chipotle, Five Guys and Leeann Chin restaurants, Sport Clips hair salon, and Massage Retreat Spa. The developer anticipates the retail center to be completed by mid-summer for turnover to the tenants for finishing improvements with store openings expected around Labor Day.

At a public hearing on June 18th, the City Council approved an amendment to the executed tax increment financing (TIF) development agreement to provide an additional \$200,000 of economic development assistance to DPS-Shoreview, LLC (Stonehenge USA) to facilitate the Phase II development to attract a preferred anchor tenant to the project. The supplemental financing was also supported by the Economic Development Authority. Last year, the City approved the phased retail development along Red Fox Road near Lexington Avenue just north of the Super Target along with a financing package of \$845,000 upon completion of Phase I and up to another \$500,000 for Phase II development, if the developer could bring a preferred anchor tenant to the project subject to the approval of the City.

With involvement from the City, the developer has worked aggressively over the past six months to secure a specialty market as the anchor for the Phase II building pad, just to the west of the retail center. The prospective anchor tenant, is strongly desired by the community, has been presented a lease agreement proposal from the developer and they are hopeful a deal can be reached soon.



Sinclair Redevelopment/TCF Bank. The City Council, as recommended by the Economic Development Authority, approved a request from Luther Properties, LLC for tax increment financing (TIF) assistance to facilitate the redevelopment of the Sinclair gas station property at the southeast corner of Lexington Avenue and Red Fox Road for a new TCF Bank branch facility.



Luther Properties, LLC, the property owner of the Sinclair gas station, will receive up to \$214,210 in financial support from the City to assist with the demolition and clean-up of the property. The property owner does not receive reimbursement for up to the maximum amount of assistance without providing supporting documentation showing actual costs incurred and until the TCF Bank project is completed.

Besides the benefits of redeveloping an old gas station property at a high visible commercial corner and the dedication of land for public right-of-way for planned road improvements and an easement for a joint commercial entrance signage, analysis indicates the City's public investment in support of the redevelopment project will be paid back in less than 6 years based on the increased taxes generated.

The property owner will commence with the environmental remediation and demolition work that needs to be completed prior to the July 1st deadline stipulated in the special tax increment authority granted to cities before turning the property over to TCF Bank. Construction of the new bank facility is expected to begin this fall with completion in the spring of 2013.

Midland Plaza Redevelopment/Lakeview Terrace Apartments. The project proposes the redevelopment of the Midland Plaza strip center for the construction of a new upscale six-story 104 unit apartment building in the Midland Terrace Apartments complex area. The planned unit development stage application was recommended by the Planning Commission for approval by the City Council. The project includes a major public improvement by the City to realign Owasso Street with County Road E at the intersection with Victoria Street to facilitate a new building pad for the development of the apartment building.



The redevelopment project proposes the creation of a new tax increment financing district to serve as the primary funding source for the public improvements and other eligible development costs to support the project.

The project was scheduled to be considered by the City Council in May, but the

developer has requested a delay to allow further time to review the project financing to ensure the redevelopment is feasible and provides the highest level of quality sought by both the developer and City.

City staff has been working with the developer's project team in undertaking additional financial analysis and explore project financing options based on the parameters established by the Council and EDA during a recent joint discussion of the project.

The delay in the financing and development approvals for the project has impacted the scheduled for the proposed road improvements. Assuming the development plans and financing issues can be resolved, the goal now is to have both the financing and development components completed by the end of this summer so the City can move forward with the Owasso Street realignment project at Victoria Street and County Road E, most likely during the spring of next year, and the developer could then begin project construction by next summer or early fall.

Shoreview Senior Living. Contractors for the developer of the Shoreview Senior Living housing are making good progress on the building construction for the mixed-care senior housing project. The building will total 105 units, with 30 independent care units, 43 assisted living units, and 32 memory care units. Framing work has been completed on both the two and three story sections of the building. The project is expected to take a little over a year to complete with an opening of the senior housing facility in April 2013. Marketing of the facility has begun and the developer indicates there has been strong interest in the community.

Shoreview Business Exchange

The *Shoreview Business Exchange* hosted by the City Council and Economic Development Commission was held on Thursday, June 14th at the Hilton Garden Inn. Businesses represented included a number of our larger employers such as Deluxe Corporation, DJO Global/Empi, Lion Precision, Mead Metals, PaR Nuclear/Westinghouse, and PaR Systems. Several of the companies (Mead Metals, PaR Nuclear, and PaR Systems indicated a desire to work with the City soon on expansion projects, and staff will follow-up on initiating discussions.

PaR Systems Expansion

Staff facilitated a meeting recently with representatives of Deluxe Corporation and PaR Systems to discuss the continuing growth of PaR Systems that will likely require an expansion of their Shoreview facilities. The purpose of the meeting was to initiate talks with Deluxe about the potential joint use of the private drive owned by Deluxe that separates the two PaR Systems properties. PaR Systems is considering an expansion of their manufacturing facility and upgrades to their corporate office (former Sheriff's patrol building) that is necessary to accommodate continued growth including a major contract for building special robotic crane equipment to be used in the clean-up of the Fukushima nuclear reactor in Japan. PaR Systems could be presenting an expansion plan to the City within the next several months. Deluxe Corporation was very open to allowing access for PaR Systems utilizing their private drive.

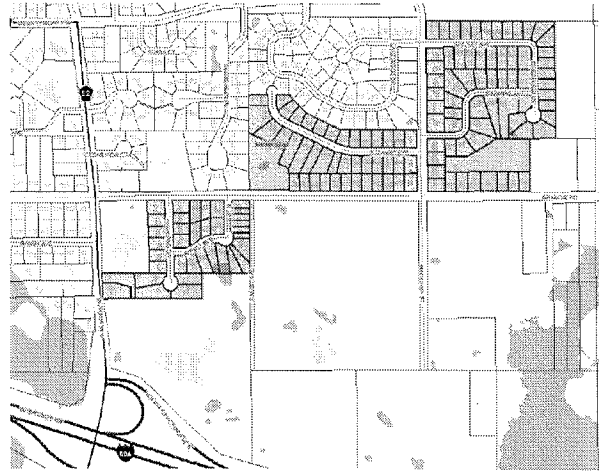
Hed Cycling

Staff has been working with local company Hed Cycling on exploring options for expansion of their facility that produces specialized bicycle wheels for racing throughout the world. Hed Cycling is located in a small building on Chatsworth Street just north of Highway 96 and would

like to expand operations. They are looking at potential acquisition of a nearby building near their current location and/or upgrades to their existing facility. According to their President Steve Hed, they have acquired a large wind tunnel machine for research and development purposes and expect continued employment growth.

Housing and Code Enforcement Activity

SHINE Program. Property owners within the selected *SHINE* area were mailed notice in advance of the neighborhood inspections that took place the week of May 21st. Of the 136 properties inspected, 118 had no violations. Those that had violations were generally minor, however, there a few properties that have housing maintenance issues that require attention. Re-inspections will begin the week of June 24th.



The map to the right shows the neighborhoods that are included in the spring SHINE inspections, in the Gramsie Road area west of Victoria Street.

Rental Licensing. To date 488 General Dwelling Unit (GDU) rental licenses and all 7 Multi-Family Dwelling Unit (MFU) rental licenses have been issued. New GDU license applications are expected throughout the year as properties are converted and the owners apply for licenses. Staff will also remain active in identifying rental properties that have not been licensed.

The 2012 inspections have commenced, with a total of about 250 GDU and 420 MFU units are scheduled for inspection during 2012. So far, 407 MFU inspections have been conducted and the remaining 13 are scheduled at MFU complex in early July. The GDU inspections have commenced and approximately 65 have been conducted so far. Overall, MFU management was very prepared for our inspections and follow-up quickly with repairs. The GDU inspections are geographically scheduled by neighborhood, conducted every other week and began on March 15th of this year.

The table below shows the significant increase in the number of licensed rental properties (not total units) since the program began in 2004, with a record of 488 licenses issued in 2012:

Year	2004	2005	2006	2007	2008	2009	2010	2011	2012
Number of Rental Licenses Issued	176	194	199	206	258	282	315	397	488

Code Enforcement. There have been 18 new code enforcement cases opened in the past month. The following table summarizes the code enforcement activity this past year and this year to date:

Year	Total Cases	Cases Open	Cases Closed
2011	200	17	183
2012	94	32	62

One citation issued in 2011 remains pending which involves barking dogs and a trial date has been set for July. A citation that was issued for refuse in February of 2012 is also scheduled for a trial date in July.

Miscellaneous

- Attached is the monthly report on building permit activity from the Building Official through May, 2012.
- Also attached are the monthly reports from the Housing Resource Center on the housing services provided to Shoreview residents through May, 2012.
- Clear Channel Billboards: Clear Channel will be installing the decorative stone base and columns around the poles in the near future at the two locations along I-694.
- Guerin Gas Station: Planning staff is currently working on signage for the restored historic structure. Public Works staff is assisting in the construction of the Texaco sign and staff has contracted with a sign company to develop an interpretive sign and small identification sign.
- Farveh Makhssous, our intern and temporary part-time employee in the Community Development Department the past 3 years has left Shoreview to take a new position with the City of Eden Prairie. Farveh did a lot of special projects for the Economic Development Authority, and was extremely valuable to the department in using her GIS skills to assist with our housing, rental licensing, and code enforcement programs.
- The City's new Communications Coordinator, Cheryl Anderson, has been updating the City's Facebook page on a regular basis. The page has included information this past week about the Concerts at the Commons, Farmers Market, and Business Exchange. If you have a Facebook page, link to the City of Shoreview page by "liking" us and you will receive various posts from the City. The Shoreview Community Center also has a separate page that is also updated regularly.

**CITY OF SHOREVIEW
BUILDING INSPECTOR MONTHLY REPORT
COMPARISON OF YEAR 2012 WITH 2011**

	MAY PERMITS	2012 VALUATION	TO DATE PERMITS	2012 VALUATION	MAY PERMITS	2011 VALUATION	TO DATE PERMITS	2011 VALUATION
DWELLINGS			6	\$1,750,000	3	\$1,054,000	7	\$2,509,000
TOWNHOMES			0	\$0			0	\$0
ADDITIONS	5	\$436,000	28	\$973,925	2	\$81,000	7	\$170,500
GARAGES			0	\$0	3	\$42,500	3	\$42,500
MISCELLANEOUS	93	\$319,269	237	\$1,577,756	160	\$394,941	309	\$1,659,314
APARTMENTS			1	\$7,482,000			0	\$0
OFFICES			0	\$0			0	\$0
RETAIL			1	\$1,310,000			0	\$0
INDUSTRIAL/WAREHOUSE			0	\$0			0	\$0
PUBLIC BUILDINGS			0	\$0			0	\$0
COMMERCIAL ADDITIONS			0	\$0			0	\$0
COMMERCIAL ALTER	4	\$193,500	17	\$4,676,083	6	\$367,595	14	\$6,784,275
TOTAL	102	\$948,769	290	\$17,769,764	174	\$1,940,036	340	\$11,165,589

**Housing *Resource* Center - NorthMetro
City of Shoreview Monthly Status Report
July 1, 2001 - May 31, 2012**

	July- Dec '01	Jan- Dec '02	Jan- Dec '03	Jan- Dec '04	Jan- Dec '05	Jan- Dec '06	Jan- Dec '07	Jan- Dec '08	Jan- Dec '09	Jan- Dec '10	Jan- Dec '11	Jan '12	Feb '12	Mar '12	Apr '12	May '12	Jun '12	Jul '12	Aug '12	Sep '12	Oct '12	Nov '12	Dec '12	Yr-to- Date	TOTAL	
Number of Calls	43	208	589	168	170	240	275	171	130	271	141	2	5	10	8	19	0	0	0	0	0	0	0	0	44	2,450
MHFA Fix Up Fund/Rehab/Rental																										
Loan Applications Rec'd	0	6	1	8	6	6	5	3	3	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	43
Loans Closed	0	5	1	5	3	0	3	2	1	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	25
Shoreview Home Energy Loan																										
Loan Applications Rec'd											6	5	0	0	1	0	0	0	0	0	0	0	0	0	1	12
Loans Closed											5	4	0	0	0	1	0	0	0	0	0	0	0	0	1	10
Ramsey County Deferred Loan																										
Loan Applications Rec'd	0	0	3	3	2	0	2	3	1	5	1	0	0	0	0	1	0	0	0	0	0	0	0	0	1	21
Loans Closed	0	0	2	0	0	1	1	1	1	2	4	0	1	0	0	0	0	0	0	0	0	0	0	0	1	13
Construction Consultation Report																										
Consultation Phone or Walk-in	5	37	14	57	69	72	123	108	71	108	65	2	5	2	3	4	0	0	0	0	0	0	0	0	16	745
Site Visits	0	25	31	51	31	58	88	67	43	78	47	2	3	3	2	3	0	0	0	0	0	0	0	0	13	532
Scopes & Inspections	5	31	57	8	0	2	2	2	3	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	113
TOTAL SERVICES PROVIDED	53	312	698	300	281	379	499	357	253	488	267	6	14	16	14	27	0	0	0	0	0	0	0	0	77	3,964
NOTE: These numbers reflect the number of CLIENTS serviced. In many instances a client will receive more than one service.																										

Introduction to Robert's Rules of Order

1. What is Parliamentary Procedure?
 2. Why is Parliamentary Procedure Important?
 3. Example of the Order of Business
 4. Motions
 5. Types of Motions
 6. How are Motions Presented?
 7. Voting on a Motion
-

What Is Parliamentary Procedure?

It is a set of rules for conduct at meetings, that allows everyone to be heard and to make decisions without confusion.

Why is Parliamentary Procedure Important?

Because it's a time tested method of conducting business at meetings and public gatherings. It can be adapted to fit the needs of any organization. Today, Robert's Rules of Order newly revised is the basic handbook of operation for most clubs, organizations and other groups. So it's important that everyone know these basic rules!

Organizations using parliamentary procedure usually follow a fixed order of business. Below is a typical example:

1. Call to order.
2. Roll call of members present.
3. Reading of minutes of last meeting.
4. Officers reports.
5. Committee reports.
6. Special orders --- Important business previously designated for consideration at this meeting.
7. Unfinished business.
8. New business.
9. Announcements.
10. Adjournment.

The method used by members to express themselves is in the form of moving motions. A motion is a proposal that the entire membership take action or a stand on an issue. Individual members can:

1. Call to order.

2. Second motions.
3. Debate motions.
4. Vote on motions.

There are four Basic Types of Motions:

1. Main Motions: The purpose of a main motion is to introduce items to the membership for their consideration. They cannot be made when any other motion is on the floor, and yield to privileged, subsidiary, and incidental motions.
2. Subsidiary Motions: Their purpose is to change or affect how a main motion is handled, and is voted on before a main motion.
3. Privileged Motions: Their purpose is to bring up items that are urgent about special or important matters unrelated to pending business.
4. Incidental Motions: Their purpose is to provide a means of questioning procedure concerning other motions and must be considered before the other motion.

How are Motions Presented?

1. Obtaining the floor
 - a. Wait until the last speaker has finished.
 - b. Rise and address the Chairman by saying, "Mr. Chairman, or Mr. President."
 - c. Wait until the Chairman recognizes you.
2. Make Your Motion
 - a. Speak in a clear and concise manner.
 - b. Always state a motion affirmatively. Say, "I move that we ..." rather than, "I move that we do not ...".
 - c. Avoid personalities and stay on your subject.
3. Wait for Someone to Second Your Motion
4. Another member will second your motion or the Chairman will call for a second.
5. If there is no second to your motion it is lost.
6. The Chairman States Your Motion
 - a. The Chairman will say, "it has been moved and seconded that we ..." Thus placing your motion before the membership for consideration and action.
 - b. The membership then either debates your motion, or may move directly to a vote.
 - c. Once your motion is presented to the membership by the chairman it becomes "assembly property", and cannot be changed by you without the consent of the members.
7. Expanding on Your Motion
 - a. The time for you to speak in favor of your motion is at this point in time, rather than at the time you present it.
 - b. The mover is always allowed to speak first.
 - c. All comments and debate must be directed to the chairman.
 - d. Keep to the time limit for speaking that has been established.
 - e. The mover may speak again only after other speakers are finished, unless called upon by the Chairman.

8. Putting the Question to the Membership
 - a. The Chairman asks, "Are you ready to vote on the question?"
 - b. If there is no more discussion, a vote is taken.
 - c. On a motion to move the previous question may be adapted.

Voting on a Motion:

The method of vote on any motion depends on the situation and the by-laws of policy of your organization. There are five methods used to vote by most organizations, they are:

1. By Voice -- The Chairman asks those in favor to say, "aye", those opposed to say "no". Any member may move for a exact count.
2. By Roll Call -- Each member answers "yes" or "no" as his name is called. This method is used when a record of each person's vote is required.
3. By General Consent -- When a motion is not likely to be opposed, the Chairman says, "if there is no objection ..." The membership shows agreement by their silence, however if one member says, "I object," the item must be put to a vote.
4. By Division -- This is a slight verification of a voice vote. It does not require a count unless the chairman so desires. Members raise their hands or stand.
5. By Ballot -- Members write their vote on a slip of paper, this method is used when secrecy is desired.

There are two other motions that are commonly used that relate to voting.

1. Motion to Table -- This motion is often used in the attempt to "kill" a motion. The option is always present, however, to "take from the table", for reconsideration by the membership.
2. Motion to Postpone Indefinitely -- This is often used as a means of parliamentary strategy and allows opponents of motion to test their strength without an actual vote being taken. Also, debate is once again open on the main motion.

Parliamentary Procedure is the best way to get things done at your meetings. But, it will only work if you use it properly.

1. Allow motions that are in order.
2. Have members obtain the floor properly.
3. Speak clearly and concisely.
4. Obey the rules of debate.

Most importantly, *BE COURTEOUS*.

Robert's Rules of Order Motions Chart

RobertsRules.org

Based on *Robert's Rules of Order Newly Revised (10th Edition)*

Part 1, Main Motions. These motions are listed in order of precedence. A motion can be introduced if it is higher on the chart than the pending motion.

§ indicates the section from Robert's Rules.

§	PURPOSE:	YOU SAY:	INTERRUPT?	2ND?	DEBATE?	AMEND?	VOTE?
§21	Close meeting	I move to adjourn	No	Yes	No	No	Majority
§20	Take break	I move to recess for ...	No	Yes	No	Yes	Majority
§19	Register complaint	I rise to a question of privilege	Yes	No	No	No	None
§18	Make follow agenda	I call for the orders of the day	Yes	No	No	No	None
§17	Lay aside temporarily	I move to lay the question on the table	No	Yes	No	No	Majority
§16	Close debate	I move the previous question	No	Yes	No	No	2/3
§15	Limit or extend debate	I move that debate be limited to ...	No	Yes	No	Yes	2/3
§14	Postpone to a certain time	I move to postpone the motion to ...	No	Yes	Yes	Yes	Majority
§13	Refer to committee	I move to refer the motion to ...	No	Yes	Yes	Yes	Majority
§12	Modify wording of motion	I move to amend the motion by ...	No	Yes	Yes	Yes	Majority
§11	Kill main motion	I move that the motion be postponed indefinitely	No	Yes	Yes	No	Majority
§10	Bring business before assembly	I move that [or "to"] ...	No	Yes	Yes	Yes	Majority

(a main motion)

Part 2, Incidental Motions. No order of precedence. These motions arise incidentally and are decided immediately.

§	PURPOSE:	YOU SAY:	INTERRUPT?	2ND?	DEBATE?	AMEND?	VOTE?
§23	Enforce rules	Point of Order	Yes	No	No	No	None
§24	Submit matter to assembly	I appeal from the decision of the chair	Yes	Yes	Varies	No	Majority
§25	Suspend rules	I move to suspend the rules	No	Yes	No	No	2/3
§26	Avoid main motion altogether	I object to the consideration of the question	Yes	No	No	No	2/3
§27	Divide motion	I move to divide the question	No	Yes	No	Yes	Majority
§29	Demand a rising vote	I move for a rising vote	Yes	No	No	No	None
§33	Parliamentary law question	Parliamentary inquiry	Yes	No	No	No	None
§33	Request for information	Point of information	Yes	No	No	No	None

Part 3, Motions That Bring a Question Again Before the Assembly.

No order of precedence. Introduce only when nothing else is pending.

§	PURPOSE:	YOU SAY:	INTERRUPT?	2ND?	DEBATE?	AMEND?	VOTE?
§34	Take matter from table	I move to take from the table ...	No	Yes	No	No	Majority
§35	Cancel previous action	I move to rescind ...	No	Yes	Yes	Yes	2/3 or Majority with notice
§37	Reconsider motion	I move to reconsider ...	No	Yes	Varies	No	Majority

OPEN MEETING LAW

1. Purpose.

The purpose of Minnesota's Open Meeting Law is:

- a.) to prohibit public actions from being taken at secret meetings where it is impossible for the interested public to detect improper influence;
- b.) to ensure the public's right to be informed; and
- c.) to afford the public an opportunity to present its views.

2. Who is Subject to the Open Meeting Law? See Minn. Stat. § 13D.01

- All city council, school board, county board and town board meetings and executive sessions (with a few narrow exceptions).
- State agencies, boards, commissions and departments.
- Committee, subcommittee, board, department, or commission meetings of the public body.
- Meetings of governing bodies of local public pension plans.
- Housing and redevelopment authority meetings.
- Economic development agency meetings.

3. What is a "Meeting?" See *Moberg v. Independent Sch. Dist. No. 281*, 336 N.W. 2d 510 (Minn. 1983); *St. Cloud Newspapers, Inc. v. District 742 Community Schs.*, 332 N.W.2d 1 (Minn. 1983).

The Open Meeting Law statute does not define the term "meeting." Minnesota courts have ruled that the Open Meeting Law applies to gatherings of officials where at least a *quorum* is present and issues relating to official business are discussed or information relating to official business is received or action (such as a vote) is taken.

- Examples:
 - chamber of commerce gatherings with councilmembers;
 - staff planning sessions with councilmembers;
 - neighborhood land use gatherings with councilmembers;

- hockey association discussions with councilmembers;
 - field trips;
 - retreats;
 - council meeting with fire department
- Telephone conversations, e-mail, letters among a quorum to create a consensus or decision.
 - Applies to deliberations as well as actions.
 - Applies to commissions, task forces.
 - Applies to serial meetings.
 - Applies to “after meeting” meetings and “before meeting” meetings.
 - Applies to intergovernmental meetings.
 - Does not apply if the gathering is only discussing non-governmental matters (the social or casual gathering).
 - Does not apply to generalized training sessions held by the League of Cities.
 - Does not apply to less than a quorum where the gathered members have no decision-making authority.
 - According to the Attorney General, a quorum of the council may attend a planning commission meeting without notice of a council meeting if the councilmembers just observe and do not participate or discuss.

4. **Electronic Communications.**

- See League memos that follow these materials.

5. **What Actions Can/Must be Closed?**

A. **Labor Negotiations** *Minn. Stat. § 13D.03*

The governing body of a public employer *may*, by a majority vote in a public meeting, decide to hold a closed meeting to consider strategy for labor negotiations.

- The time of commencement and place of the closed meeting must be announced at the public meeting.

- Following the closed meeting, a written record of all members present must be made available to the public.
- After all labor contracts have been signed, a tape-recording of the meeting must also be made available to the public.
- If a claim is made that public business, other than labor negotiation strategy, was discussed at the meeting, a court must privately review the tape-recording of the meeting. The tape must be kept for two years after the contract is signed.

B. Specific Types of Non Public Data *Minn. Stat. § 13D.05*

The general rule is that meetings cannot be closed to discuss data that is not public. Any portion of a meeting *must* be closed if expressly required by another law or if the following types of data are discussed:

- Data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults.
- Active investigative data created by a law enforcement agency or internal affairs data relating to allegations of law enforcement personnel misconduct.
- Educational, health, medical, welfare, or mental health data that are not public data under separate statutes.

Data discussed at an open meeting retains its original classification. However, a record of the meeting will be public.

C. Misconduct Allegations or Charges *Minn. Stat. § 13D.05, Subd. 2(b)*

A public body *shall close* one or more meetings for preliminary consideration of allegations or charges against an individual subject to its authority. If members conclude that discipline is warranted, any subsequent hearings related to the charge or allegation must be open. A meeting must also be open at the request of the individual who is the subject of the meeting.

D. Performance Evaluations *Minn. Stat. § 13D.05, Subd. 3(a)*

A public body *may close* a meeting to evaluate the performance of an individual who is subject to its authority. The public body must identify the individual to be evaluated prior to closing a meeting. At its next open meeting, the public body must summarize its conclusions regarding the meeting. A meeting must also be open at the request of the individual who is the subject of the meeting.

- E. Attorney-client Privilege *Minn. Stat. § 13D.05, Subd. 3(b); Northwest Publications, Inc. v. City of St. Paul, 435 N.W.2d 64(Minn.Ct.App.1989; Star Tribune v. Board of Educ., 501 N.W.2d 869 (Minn.Ct.App.1993); Prior Lake American v. Mader 642 N.W.2d 729 (Minn. 2002); Clearwater v. Independent School Dist. No. 166, 2001 WL 1155706 (Minn.App.); The Free Press v. County of Blue Earth, 677 N.W.2d 471 (Minn.Ct.App. 2004).*

A meeting may be closed if permitted by the attorney-client privilege. This privilege does not extend to a request for general legal advice or opinions.

- F. Security Briefings *Minn. Stat. § 13D.05, Subd. 3(d)*

Meetings may be closed to receive security briefings and reports and emergency response procedures if disclosure of the information would pose a danger to public safety or compromise security procedures or responses.

Financial issues relating to security must be discussed at an open meeting.

Must tape record the closed portion of the meeting and must keep the tape for four years.

- G. Appraisals; Developing Offers Or Counteroffers For Purchase Of Real Estate Or Personal Property *Minn. Stat. § 13D.04, Subd. 3.*

Meetings may be closed:

- to determine the asking price for real or personal property to be sold by the city
- to review appraisal data
- to develop or consider offers or counteroffers for the purchase or sale of real or personal property.

Before closing the meeting, the council must identify on the record the real or personal property that will be discussed.

Must tape record the closed meeting and must keep the tape for eight years after the date of the meeting. Must keep a list of the persons at the closed meeting. The list of those present is available after closed meeting.

Must make the tape available after the city buys or sells the property or the city abandons the sale or purchase.

Actual sale or purchase and purchase price must be approved at an open meeting; vote to sell or purchase must be at an open meeting.

H. Keeping Tapes of Closed Meetings *Minn. Stat. § 13D.05, Subd. 1(d)*

All closed meetings, except those closed as permitted by the attorney-client privilege, must be electronically recorded at the expense of the public body. Unless otherwise provided by law, the recordings must be preserved for at least three years after the date of the meeting.

6. Legal Meetings - Notice and Agenda Issues. *Minn. Stat. § 13D.04*

- A schedule of the *regular meetings* of a public body shall be kept on file at its primary offices. If a regular meeting is to be held at a time or place different from that stated in the schedule of regular meetings, the public body shall give notice as provided for a “special meeting.”
- For a *special meeting* the public body shall post written notice of the date, time, place and purpose of the meeting on the principal bulletin board of the public body or on the door of its usual meeting room. Publication is an alternative.
- For an *emergency meeting* the public body shall make a good faith effort to provide notice to each news medium that has filed a written request for notice.
- All notice requirements apply to closed meetings.
- In statutory cities, the mayor may call a meeting or two of the five-person council may call a meeting.
- Possible use of interactive television
- A “recessed” meeting does not have to be renoticed as long as the time and place of the recessed meeting were established and recorded at the previous meeting.

7. Procedures for Closing a Meeting. *Minn. Stat. § 13D.01, Subd. 3*

- The body must first meet in open
- The body must announce why the meeting is to be closed (the exception that allows a closed meeting)
- The body must identify who will attend the closed meeting
- The body must specifically describe the matter to be discussed at the meeting vs. merely identifying the issues. *See The Free Press v. County of Blue Earth, 677 N.W.2d 471 (Minn.Ct.App. 2004).*

- All closed meetings, except those closed as permitted by the attorney-client privilege, must be electronically recorded at the expense of the public body. Unless otherwise provided by law, the recordings must be preserved for at least three years after the date of the meeting.

8. Remedies and Penalties. *Minn. Stat. § 13D.06; Claude v. Collins, 518 N.W.2d 836 (Minn 1994).*

- Any person who intentionally violates the Open Meeting Law is subject to personal liability in the form of a civil penalty of up to \$300.
- If a person has been found to have intentionally violated the Open Meeting Law three or more times involving the same governing body, such person shall forfeit the right to serve on the governing body for a period of time equal to the term of office that was being served.
- A court may award costs and attorney's fees of up to \$13,000 to any party in an action under the Open Meeting Law. Specific intent must be found.
- The court shall award reasonable attorney fees to a prevailing plaintiff who has brought an action under this section if the public body that is the defendant in the action was also the subject of a prior written opinion issued under section 13.072, and the court finds that the opinion is directly related to the cause of action being litigated and that the public body did not act in conformity with the opinion. The court shall give deference to the opinion in a proceeding brought under this section.

9. Other Citizen Rights Under Open Meeting Law.

Right to Know When the Public Body Meets

- Regular meeting (schedule at City Offices)
- Special meeting (three days posted and mailed notice or delivered notice)
- Emergency meeting (notification of news media)

Right to Convenient Location

- Accessible
- Generally, must be in city corporate limits

Right to Watch and be Present

- Open meeting law (public right to be present)

- All meetings of the Council shall be open to the public (*Minn. Stat. § 412.191, Subd. 2*)

Right to Know How the Public Body Voted

- Record votes in journal
- Votes taken in public

Right to Know What Supporting Material the Public Body Had in Front of It

- Available at meeting
- Rule does not apply to confidential data or closed meeting information

Right to Have a Summary Record of Council Minutes – or Else Publish Them – or Else Mail to Those Who Have Requested

- Within 30 Days After Meeting
- Distribution at City Expense
- Rule Does Not Apply to Cities of Less Than 1,000 Population

Right to Have Ordinances Published

- Minn. Stat. § 421.191, Subd. 4
- Minn. Stat. Chp. 331A

10. Update and Review of Relevant Caselaw.

Canons of Construction

- *Prior Lake American v. Mader*, 642 N.W.2d 729 (2002)
- *Merz v. Leitch*, 342 N.W.2d 141 (1984)
- *St. Cloud Newspapers, Inc. v. District 742 Community Schools*, 332 N.W.2d 1 (1983)

Social Gatherings

- *Berglund v. City of Maplewood*, 173 F.Supp.2d 935 (D.Minn.2001)
- *St. Cloud Newspapers, Inc. v. District 742 Community Schools*, 332 N.W.2d 1 (1983)
- *Hubbard Broadcasting, Inc. v. City of Afton*, 323 N.W.2d 757 (1982)

Generalized Legal Advice

- *Northwest Publications, Inc. v. City of St. Paul*, 435 N.W.2d 64 (Minn.Ct.App. 1989)

Serialized Meetings

- *Mankato Free Press v. City of Mankato*, 563 N.W.2d 291 (Minn.Ct.App. 1997); Department of Administration Advisory Opinion 09-020

Councilmembers Attending Committee Meetings

- *Op.Atty.Gen.*, 63a-5, August 28, 1996 (re City Council of Ely)

No Delegated Authority to Act

- *Sovereign v. Dunn*, 498 N.W.2d 62 (Minn.Ct.App. 1993)

Attorney – Client Privilege

- *Demming v. Housing and Redevelopment Authority of Duluth*, 847 F.Supp. 130 (1994)
- *Minneapolis Star Tribune v. Housing and Redevelopment Authority In and For City of Minneapolis*, 310 Minn. 313, 251 N.W.2d 620 (1976)
- *Prior Lake American v. Mader*, 642 N.W.2d 729 (Minn. 2002)
- *The Free Press v. County of Blue Earth*, 677 N.W.2d 471 (Minn.Ct.App. 2004)
- *City Pages v. State of Minnesota, et al*, 655 N.W.2d 839 (Minn.Ct.App. 2003).
- *Brainerd Daily Dispatch v. Dehen*, 693 N.W.2d 435 (Minn.Ct.App. 2005)

Purpose of Open Meeting Law

- *Rupp v. Mayasich*, 533 N.W.2d 893 (Minn.Ct.App. 1995)

General Training Session

- *Op.Atty.Gen.*, 63a-5, Feb. 5, 1975

Whether Ex-Officio Meeting is Really a Meeting

- *St. Cloud Newspapers, Inc. v. District 742 Community Schools*, 332 N.W.2d 1 (1983)
- *Minnesota Educ. Ass'n v. Bennett*, 321 N.W.2d 395 (1982)

Meeting of a Public Body

- *Star Tribune Company, et al v. University of Minnesota Board of Regents, et al.*, 2004 WL Minn. Jul 15, 2004.

Electronics and the Elected

By Greg Van Wormer

When running for office, it's a given that some aspects of your private life will become more public. Once you're elected, this becomes even more apparent, and as it relates to technology it may become more public than you ever thought it would.

As a city councilmember dealing with official city business, a whole new set of rules and regulations covers your actions. You've probably seen a lot of the information in this article elsewhere and there's a reason for that: it's important.

E-mail can be a convenient way to communicate, but there are a number of possible problems to watch out for in this area.

Potential Open Meeting Law problems. For starters, you need to make sure you don't hold a serial meeting via e-mail. Consider the following scenario: Let's say a quorum of your city council is three councilmembers. The city clerk sends out the agenda for the upcoming council meeting.

You notice an item on the agenda regarding a joint powers agreement for fire coverage with the city of Mosquito Heights. You forward this e-mail to councilmember Anderson, and write that you have concerns about Mosquito Heights having enough equipment to truly cover your city. Anderson agrees with you, adds her comments, and sends it to councilmember Herkimer. Once that happens, this e-mail exchange could be considered a meeting and could be in violation of the Open Meeting Law. Best advice is to treat electronic communication regarding city business as one-way.

Your e-mail account. Another thing to be careful of is the account where you receive e-mail related to city business since such e-mails are considered government data. The best option is for

each councilmember to have his or her own e-mail account provided by the city, and handled by city staff or contracted staff. However, this is not always feasible for cities due to budget, size, or logistics.

If you don't have a city e-mail account, there are some things to think about before using your personal e-mail address for city business. First, who has access to that account? Preferably, just you. Using a shared account with other family members could lead to incorrect information being communicated from the account, or incoming information being inadvertently deleted. Also, since city e-mails are government data, city officials may have to separate personal and city e-mails.

Second, is the account you want to use for city business tied to your employer? Most likely your employer has a policy that restricts this kind of use. However if your employer allows this type of use, be aware that in the event of a freedom of information request, or litigation request, your employer may be compelled by law to have a search done of your e-mail or, worst case, restore files from a backup or archive. While technically possible, it might not sit well with an employer.

What may work best is to utilize a free third-party e-mail service, such as g-mail or Hotmail, for your city account, and avoid using that e-mail account for anything that may constitute an official record of city business since such records must be retained in accordance with state retention requirements. (For more information about what constitutes an official record, see the Minnesota Historical Society's guide *Managing Your Government Records*, available at www.mnhs.org/preserve/records/recordsguidelines/guidelines.html.)

Social media exposure. Another area of concern is social media. The first

thing you want to check is whether your city has a policy on the use of social media. If not, it's probably a good idea to get one implemented. Even if your city doesn't plan on using social media, it's important to document exactly what the city's policy is; otherwise, you could have unauthorized social media sites popping up.

For example, the parks department director could create a Facebook page for the department using a personal Facebook account. Later, the same person could leave the city's employment, start a "gentlemen's club," and use the same Facebook account he used for the parks department page. It could then look like the city's parks department was connected to the new gentlemen's club. This is probably not something city officials would want to see.

Another potential problem is the same one discussed earlier regarding e-mail: make sure you don't have a potential serial meeting via social media. Similar to the e-mail example, you post a status on Facebook that you're really excited about the proposed pooper scooper ordinance. Fellow councilmember Anderson comments that she agrees, and councilmember Herkimer clicks the "like" button. Again, you've most likely held a meeting in potential violation of the Open Meeting Law. An easy way to avoid that from happening is to not comment on city business in social media or, if you do, don't allow other comments.

As you communicate electronically, just remember to operate similarly to how you would face to face, following the same rules, and if you have a question about whether something is appropriate, it probably isn't. ■

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Open Meeting Law and Electronic Communications

By Ann Gergen

E-mail correspondence can be an unintentional conduit for city officials to violate the Minnesota open meeting law (OML), Minn. Stat. §13D. Cities should implement policies related to how and when councilmembers or committee members are allowed to communicate through e-mail or other electronic means as a way to avoid violating the law and incurring penalties.

The basic requirement of the OML is that meetings of at least a quorum of the city council or one of its committees to discuss city business must be publicized and open to the public, subject to a few exceptions. A primary purpose of the law is to ensure deliberations about city business take place publicly, followed by a final and public decision.

The law applies to any discussion about city business, not just voting or official actions, and to any gathering of a quorum of the council or committee. In most cities, a quorum is three or more council or committee members.

Violating the OML carries with it penalties, including personal liability for up to \$300 per occurrence and forfeiture of office for officials who intentionally violate the law three times. Reasonable costs and attorney fees can also be awarded if the court finds specific intent to violate the law.

The OML has a number of tricky aspects—not the least of which results from increasing reliance on e-mail communication between council or committee members.

It's easy to imagine where a quorum might gather—coffee at the local café, pre- or post-meeting discussions, or a community celebration are all common spots for councilmembers to meet. There are also some not-so-obvious ways a quorum might meet, for instance in a serial meeting. Councilmember A talks to councilmember B, B talks to councilmember C, and C talks to A.

Another is through written correspondence, or conference calls. These scenarios would create concern if the group discussed city business.

E-mail makes a serial meeting easier by allowing council or committee members to forward messages. Imagine one councilmember e-mailing another to suggest the pros and cons of a particular city decision. The recipient forwards the e-mail, along with his or her comments and interpretations. Even if the last councilmember to receive the e-mail doesn't reply, the three members have discussed city business outside a public forum. A violation could be found where serial e-mailing is used to reach a decision.

Many cities are moving toward electronic meeting packets, often sent via e-mail attachment. This one-way distribution of information is fine in terms of the OML. City officials should start to get concerned, though, when one or more councilmembers "reply to all" to respond to the content of the materials, or otherwise begin an e-mail discussion about the packet. This can begin to look a lot like non-public discussion of city business.


One suggestion is that councilmembers never communicate to one-another using e-mail, but instead treat e-mail as a way to receive information from the clerk or administrator. If a councilmember has information to share via e-mail, he or she might send it to the clerk and ask for it to be distributed by the clerk to everyone else (by e-mail or in paper form). Using the clerk for information distribution is probably a safer alternative than councilmembers communicating directly by e-mail.

If councilmembers are engaged in e-mail discussions, it's wise to do so only between two members. A "no forwarding" rule might be a good way to ensure the OML isn't unintentionally violated through e-mail.

Finally, be careful when councilmembers participate in a listserv or any chatroom sort of forum. Because these distribution lists may include a quorum of the council, one councilmember's comments will be viewed by other members. If the topic has to do with city business and another councilmember replies to the listserv, it could prove problematic under the OML. Again, the city might consider a "no reply" rule, or perhaps have councilmembers send ideas for postings or responses to the clerk or administrator to manage.

Remember, too, that official city committees are subject to the same open meeting requirements and should be similarly educated about correct e-mail use.

Regardless of precautions, there may be times when councilmembers find themselves accused of violating the OML, perhaps by unintentionally engaging in one of these sorts of conversations. One way to diffuse concern is to immediately release copies of all e-mail correspondence to anyone who wants to see it. While this doesn't negate the possible violation, it shows good faith and lack of specific intent to violate the law.

E-mail exchanges tend to be treated less formally than other written correspondence or in-person meetings, but create the same sorts of open meeting concerns. It's important to educate city elected officials about the OML requirements and provide guidelines for e-mail exchanges. If you'd like additional information, check with your city attorney or contact the League. 

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CONNECTING & INNOVATING
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RISK MANAGEMENT INFORMATION
**ELECTRONIC COMMUNICATIONS
BETWEEN COUNCIL MEMBERS**

E-mail correspondence can be an unintentional conduit for city officials to violate the Minnesota Open Meeting Law. This memo outlines some points elected officials and members of city committees and boards should be aware of to avoid inadvertently violating the Open Meeting Law.

The Open Meeting Law

Under the Minnesota Open Meeting Law, Minn. Stat. §13D, meetings of at least a quorum of the city council or one of its committees to discuss city business must be publicized and open to the public, subject to a few exceptions. A primary purpose of the law is to make sure information and deliberations about city business are available to the public.

The law applies to any discussion about city business, not just voting or official actions, and to any gathering of a quorum of the council or committee. In most cities a quorum is three or more council or committee members.

It's easy to imagine situations where a quorum might gather – coffee at the local café, pre- or post-meeting discussions, a wedding reception or community celebration are all common spots for councilmembers to meet. There are also some not-so-obvious ways a quorum might meet, for instance in a serial meeting – imagine Council Member A talks to Council Member B, B talks to Council Member C, and C talks to A. Another is through written correspondence, or through telephone conference calls. Any of these scenarios would create an open meeting concern if the group discussed city business.

Violating the open meeting law carries with it penalties including personal liability for up to \$300 per occurrence and forfeiture of office for officials who intentionally violate the law three times. Reasonable costs and attorney fees can also be awarded if the court finds specific intent to violate the law.

Electronic communications and the Open Meeting Law

The Minnesota Open Meeting Law has a number of tricky aspects, not the least of which results from increasing reliance on e-mail communication between council or committee members.

E-mail makes a serial meeting easier by allowing council or committee members to forward messages from one person to the next. Imagine one Council Member e-mailing another to suggest the pros and cons of a particular city decision. The recipient forwards the e-mail to another

This material is provided as general information and is not a substitute for legal advice.
Consult your attorney for advice concerning specific situations.

Council Member, along with his or her own comments and interpretations.

Even if the last Council Member to receive the e-mail doesn't reply to either the originator or the Council Member who forwarded the message, the three members have still discussed city business outside a public forum. A violation could be found where serial e-mailing is used to reach a decision.

Many cities are moving toward electronic meeting packets for councils and committees, often sent via e-mail attachments. This sort of one-way distribution of information is fine in terms of the Minnesota Open Meeting Law, remembering that any materials relating to the agenda items of a meeting distributed to members must also be made available to the public as well.

City officials should start to get concerned, though, when one or more Council Members use the "reply to all" feature in e-mail to respond to the content of the meeting materials, or otherwise begin a discussion by e-mail about the packet. This can begin to look a lot like non-public discussion of city business.

Suggestions

One suggestion is that Council Members never communicate to one-another using e-mail, but instead treat e-mail only as a way to receive information from the city clerk or administrator. If a Council Member has information to share via e-mail with the rest of the group, he or she might send it to the clerk and ask for it to be distributed from the clerk to everyone else (by e-mail or in paper form).

Using the clerk as the clearinghouse for information distribution is probably a safer alternative than having Council Members communicate directly, although it doesn't completely eliminate concerns about violating the open meeting law. Even this clearinghouse concept could provide opportunity for three or more Council Members to exchange opinions about city business, so it's important that the city clerk be aware of and watch for possible issues. Finally, this model would still present problems in Standard Plan cities, where the clerk is also a member of the council.

If Council Members are engaged in direct e-mail discussions, it's probably best to limit it to only two members. A "no forwarding and no copying" rule might be a good way to make sure the Minnesota Open Meeting Law isn't unintentionally violated through e-mail conversation.

Finally, be careful when Council Members participate in a listserv or any chatroom sort of forum. Because these distribution lists may include a quorum of your council, one Council Member's comments on the listserv will be viewed by other members. If the topic has to do with city business and another Council Member replies to the listserv, it could prove problematic under the Minnesota Open Meeting Law.

Again, the city might consider a "no reply" sort of rule when it comes to these resources, or perhaps have Council Members send ideas for postings or responses to the city clerk or administrator to manage. Remember, too, that official city committees are subject to the same open meeting requirements and should be similarly educated about correct e-mail use.

Regardless of precautions, there may be times when Council Members find themselves accused of violating the Minnesota Open Meeting Law, perhaps having unintentionally engaged in one of these sorts of conversations. One way to diffuse some concern is to immediately release copies of all e-mail correspondence to anyone who wants to see it. While this doesn't negate the possible violation, it shows good faith and lack of specific intent to violate the law.

Draft guidelines for electronic communications between Council Members

Cities might decide to develop policies clarifying appropriate or preferred email use by and between Council Members. Even if a city doesn't formally adopt a policy, the guidelines here might be helpful for any elected official or city board member to follow.

The purpose of these draft guidelines is to suggest how members of city councils and other city committees might communicate via email and electronic means. A city should review these draft guidelines along with its normal operating procedures, consult with the city attorney and determine the best course of action.

Ann Gergen 11/07



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City of Shoreview Planning Commission Training Sessions

June/July, 2005

***Page 2 – 5c added
May 22, 2012***

Introduction

On June 14th and July 12th, 2005, the Shoreview Planning Commission and key staff met to discuss roles and responsibilities and general issues connected with performing the work of the Commission. The following is a summary of the proceedings and the decisions that were made. It was determined that these decisions would form the basis for action plans to be discussed further at an upcoming meeting.

The group agreed in advance to be interviewed by the facilitator. The information gathered during the interviews was aggregated and used as means to focus the training and discussion. The meeting on June 14th focused primarily on roles and responsibilities, issue identification and meeting management.

The meeting on July 12th continued the discussion of issues, and included a discussion of teamwork, the process for feedback, and a definition of core values. The group identified the following as issues requiring follow-up action:

1. Hold a joint meeting with the City Council
 - a. Frequency to be determined jointly – ideally on an annual basis. Discussion to cover city vision, issues of joint concern, philosophy of community and economic development
2. Review Roberts Rules of Order
 - a. Review to determine a consistent approach to public testimony, commission discussion, and timing of motions.
3. Determine structure and frequency of “workshop” Sessions
 - a. Determine how best to use workshop sessions to aid in improving long-term thinking, informal group interaction, camaraderie
4. Get better/clearer definition of limits and prohibitions of the Open Meeting Law
 - a. Request assistance from City Attorney to explain limits and prohibitions in order to be clear about informal gatherings and contact between members.
5. Actively work on sharing responsibility and accountability for functioning of meetings
 - a. Each group member pledged to work on taking individual responsibility for their own participation in the group, and to hold themselves and others accountable for the proper functioning of the Commission.
 - b. It was agreed that the Commission would actively listen to the recommendations of staff and work to understand their perspective.
 - c. ***Each member shall provide constructive feedback to other Commission members when needed***
6. List the shared values of Planning Commission
 - a. The Commission will determine how best to display the Values identified at the July 12th meeting.

Values

The group collectively identified a set of common values that they agreed would guide them in their work as a Commission. These values will be prominently displayed in a manner that would help remind them of this commitment.

The Shoreview Planning Commission identified the following as core values. These values are meant as an outward expression of how the Commission will conduct business and treat others:

1. Integrity/Honesty
2. Open Minded
3. Empathy
4. Courage
5. Share Responsibility
6. Listen and Show Respect for the Ideas of Others

Although not specifically discussed, these value statements should be approved formally by the Commission. A copy should be forwarded to the City Council.

The Planning Commission and staff also considered a feedback process suggested by the facilitator, however, it was determined that the group would not immediately pursue the recommended approach, but rather, would convene periodically and conduct an internal examination of how the Commission was functioning and take appropriate action to address issues.

Respectfully submitted,

Craig R. Rapp